

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2020-266-E - ORDER NO. 2021-36

JANUARY 19, 2021

IN RE: John Nihiser, Complainant/Petitioner v. Duke	)	ORDER GRANTING
Energy Carolinas, LLC,	)	REQUEST TO
Defendant/Respondent	)	WITHDRAW
	)	COMPLAINT

This matter comes before the Public Service Commission (“Commission”) on the Request to Withdraw Complaint filed by John Nihiser (“Complainant”).

On November 3, 2020, Mr. Nihiser filed a Complaint against Duke Energy Carolinas, LLC (“DEC” or the “Company”) concerning the “lack of vegetation management along the woods to the rear of [his] property.” According to the Complaint, the Company’s right-of-way has not been maintained in years, and “limbs are contacting the line, sparking, causing fires and damage to the trees,” which creates the risk for personal injury and/or property damage. The Complaint further alleges that seven (7) work orders have been filed with or by DEC to have the tree trimming completed, yet the work orders have been closed with no work performed. Mr. Nihiser requests that the Company maintain its right-of-way along with trimming and cutting back, as needed, to ensure safety along the line.

By letter dated November 5, 2020, the Clerk’s Office of the Commission issued a Scheduling Notice (the “Notice”). Among other things, the Notice provided information regarding the nature of the proceeding and advised of the date and time of the virtual

hearing. The Notice set a direct testimony deadline of November 23, 2020, for DEC and the South Carolina Office of Regulatory Staff. Complainant's response to direct testimony was due by December 3, 2020.

Prior to any response from the Company, Mr. Nihiser filed his request to withdraw the Complaint on November 16, 2020. According to the request, DEC has scheduled tree trimming of its right-of-way at the rear of Mr. Nihiser's property during the first quarter of 2021. Complainant states completing the tree trimming would settle the dispute, and thus, wishes to have his Complaint withdrawn. The Company has not filed an objection to Mr. Nihiser's request.

A party may withdraw its complaint "one time as a matter of right, and without prejudice, provided that it does so prior to the later of the date that responsive pleadings are filed or the date that the withdrawing party's direct testimony addressing such . . . complaint . . . is due to be filed with the commission." S.C. Code Ann. § 58-3-225(E) (2015).

Mr. Nihiser is entitled to withdraw the Complaint, one time, as a matter of right. He filed his request to withdraw on November 16, 2020, which is prior to the November 23, 2020 direct testimony deadline and the December 3, 2020 response deadline. His request is timely filed. In support of his request, Mr. Nihiser states that DEC's scheduled tree trimming in the first quarter of 2021 addresses his concern and also settles the dispute between the parties. Further, DEC has not filed an objection to the request. Accordingly, the request of Mr. Nihiser to withdraw the Complaint should be approved.

**I. FINDINGS OF FACT**

1. The Commission finds that Mr. Nihiser filed a Complaint against Duke Energy Carolinas, LLC on November 3, 2020.

2. The Commission finds that the Scheduling Notice established a direct testimony deadline of November 23, 2020, and a response deadline of December 3, 2020.

3. The Commission finds that Mr. Nihiser filed a Request to Withdraw Complaint on November 16, 2020, prior to the direct testimony and response deadlines established by the Scheduling Notice and prior to any response from the Company.

**II. CONCLUSIONS OF LAW**

1. The Commission concludes that Mr. Nihiser may withdraw the Complaint, one time, as a matter of right prior to the later of the date that responsive pleadings are filed or the date that the withdrawing party's direct testimony addressing such complaint is due to be filed with the Commission. S.C. Code Ann. § 58-3-225(E) (2015).

**III. ORDERING PROVISIONS**


**IT IS THEREBY ORDERED THAT:**

1. The Request to Withdraw Complaint filed by John Nihiser is hereby granted.

2. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



  
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Florence P. Belser, Vice Chairman  
Public Service Commission of  
South Carolina